

REMARKS

Claims 1, 3-26 and 28 are pending in this application. Claims 23-26 and 28 are rejected. Claims 1 and 3-22 are allowed. No new matter has been added. It is respectfully submitted that the pending claims define allowable subject matter.

Applicant acknowledges with appreciation the allowance of claims 1 and 3-22.

Claim 23 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Bacellar et al. (U.S. Patent Application Publication 2006/0108181), hereafter Bacellar in view of Mattes et al. (U.S. Patent 5,118,134), hereafter Mattes. Claim 24 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Bacellar in view of Mattes and further in view of Yarkosky (U.S. Patent 6,895,218) and Takatori et al. (U.S. Patent 6,421,027 B1). Claim 25 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Drop (U.S. Patent 6,202,799) in view of Dupray (U.S. Patent Application Publication 2004/0198386). Claims 26 and 28 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Drop in view of Dupray and further in view of Yarkosky and Takatori. Applicant respectfully traverses these rejections for at least the reasons set forth below.

Independent claims 23 and 25 have been amended to make clearer that the communication modules are mountable or mounted to an outside of the building. Specifically, independent claim 23 has been amended to recite a communication system including, among other elements “a first communication module mountable to a side of an outside surface of a building” and “a second communication module mountable to the side of the outside surface of the building on a different level of the building” with the second communication module configured to “receive radio signals from and transmit radio signals to the first communication module using an outward facing array of the second communication module, the radio signals propagated at least one of substantially upward and substantially downward along the outside surface of the building; and transmit the radio signals into the building using an inward facing array of the communication module.” Support for these amendments can be found in the application as filed, for example, as shown in Figure 2 and described at paragraph 0023.

The Bacellar reference describes a system including piconet modules mounted to walls inside a building, as well as to controller within a hoistway at the top of the elevator shaft including a piconet module (see, e.g., Bacellar, paragraphs 0028 and 0029). The piconet modules of the system of Bacellar are mounted inside the building and not outside the building as claimed. Moreover, the controller in Bacellar within the hoistway is not described or shown outside the building. Thus, radio signals are not transmitted into the building as suggested in the Office Action (Office Action, page 3). Moreover, even assuming *arguendo* that the hoistway is outside the building, the Bacellar reference only teaches a single piconet module outside the building, not first and second communication modules providing communication as claimed.

Additionally, the Office Action concedes that the Bacellar reference fails to disclose, among other elements “the radio signal propagated at least one [of] substantially upward and substantially downward along an outside surface of the building; and transmit the radio signal into the building using an inward facing array of the communication module.” (Office Action, pages 3 and 4). The Office Action then states that the Mattes reference describing a system for protecting occupants of a car makes up for the deficiencies by teaching ultrasonic transmitters and receivers within a vehicle to determine the position of a motor vehicle occupant citing to Mattes, column 4, lines 15-24. The Office Action states that “if the transmitter is placed outside a wall and communicates with another transceiver in a different elevation it communicates downward or upward.” The Office Action then makes the conclusory statement that it would have been obvious to one of ordinary skill in the art to modify the system of Bacellar as disclosed by Mattes to propagate the radio signal along an outside of the building “for the purpose of transmitting it through to the communication modules.” Applicant respectfully disagrees for all the reasons set forth below.

The position detecting system of Mattes teaches monitoring movement within the confines of a vehicle using ultrasonic devices. These ultrasound devices are not capable of communicating information in radio signals. Further, nothing in the Mattes reference would suggest placing the ultrasonic devices on an outside of a building to detect movement outside the building. Moreover, there would simply be no reason or need to detect movement along the outside of a building or provide any communication along an outside of the building in the system of Bacellar. The elevator system of Bacellar is within the building and the system and

communication provided by the Bacellar reference is concerned with communicating information within a building, including to passengers within the building having remote control devices with piconet modules (see, e.g., Bacellar, paragraph 0032 and 0033). Placing devices outside the building would defeat the stated purpose of the system of Bacellar and cause the system to fail for its intended purpose of communicating elevator information within the building (see, e.g., Bacellar, paragraph 0029). Thus, there is a teaching away from the combination.

Moreover, Applicant also submits that the Mattes reference is nonanalogous art and cannot be used to support a rejection of claims 23 and 24 under 35 U.S.C. § 103. (Manual of Patent Examining Procedures § 2141.01(a) (cited herein as “MPEP”)). In order for a reference to be analogous art, the reference must (1) be from the same field of endeavor as the application, regardless of the problems addressed, and (2) if the reference is not from the same field of endeavor, the reference must be reasonably pertinent to the particular problem to be solved. (Wang Labs., Inc. v. Toshiba Corp., 993 F.2d 858 (Fed. Cir. 1993)). The Mattes reference does not qualify as analogous art under this test. The Mattes reference is not from the same field of endeavor as the claimed invention. The Mattes reference relates to protecting motor vehicle occupants using position sensors. The claimed invention recites a communication system with communication modules mountable to a side of an outside surface of a building. Communication systems for buildings and systems for protecting occupants of a vehicle are not from the same field of endeavor.

Additionally, the Mattes reference is not reasonably pertinent to the problems solved by the claimed invention. Using position sensors to determine the position of a motor vehicle occupant is not the same as communicating information between floors of a building. Applicant submits that one of ordinary skill in the art of Bacellar is unlikely to resort to the art of car safety systems to solve one or more problems posed in building communication systems.

Further, proper basis is not provided as required by KSR for why it would be obvious to modify Bacellar based on Mattes. As established in *KSR Int’l v. Teleflex Inc.*, 127 S. Ct. 1727 (2007), and as stated in MPEP 2142, rejections on obviousness cannot be sustained with mere conclusory statements, but instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. Applicant respectfully submits that

the conclusory statement in the Office Action that it would have been obvious at the time the invention was made to one of ordinary skill in the art “for the purpose of transmitting it [radio signal] through to the communication modules” is not sufficient under KSR. (Final Office Action, page 4). There is no reasoning provided as to why such results are supported by the combination.

Accordingly, Applicant submits that claim 23 is allowable.

Claim 24 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Bacellar in view of Mattes and further in view of Yarkosky and Takatori. Claim 24 depends from independent claim 23 and is allowable based at least on the dependency of this claim from claim 23. Further, even from a cursory reading of the Yarkosky and Takatori references, these reference fail to make up for the deficiencies of the Bacellar and Mattes references as discussed in more detail above.

Independent claim 25, as amended, recites a method including, among other elements “receiving at a first communication module a radio signal transmitted from a second communication module, wherein the first and second communication modules are mounted to an outside of a building at different elevations.” Support for this amendment can be found in the application as filed, for example, as shown in Figure 2 and described at paragraph 0023.

The Drop reference discloses transponders on different floors within a building that communicate with beacons and elevator cards carried by passengers within the building (see, e.g., Drop, column 2, lines 33 to column 3, line 65). All communication is within the building and must be within the building in order to communicate with the elevator cards of the passengers to control elevator operation. If the transponders of the system of Drop were mounted to the outside of the building, the system would fail to operate for its intended purpose of communicating with elevator cards carried by passengers to control elevators within the building (see, e.g., Bacellar, column 2, line 33 to column 3, line 65). There is also simply no reason to communicate any signals outside of the building. The Dupray reference fails to make up for these deficiencies.

Accordingly, Applicant submits that claim 25 is allowable.

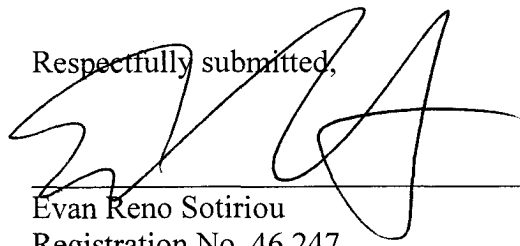
Claims 26 and 28 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Drop and Dupray in view of Yarkosky and Takatori. Claims 26 and 28 depend from independent claim 25 and are allowable based at least on the dependency of these claims from claim 25. Further, even from a cursory reading of the Yarkosky and Takatori references, these references fail to make up for the deficiencies of the Drop and Dupray references as discussed in more detail above.

There may be other reasons in addition to the reasons argued herein or herebefore that claims 23-26 and 28 are patentable over the cited references. Applicant reserves the right to argue such other reasons hereafter.

In view of the foregoing amendments and remarks, it is respectfully submitted that the cited references neither anticipate nor render obvious the claimed invention and the pending claims in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited. Should anything remain in order to place the present application in condition for allowance, the Examiner is kindly invited to contact the undersigned at the telephone number listed below.

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Respectfully submitted,



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